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FEDERAL COMMUNICATIONS COMMISSION
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Amendment to the Commission's Rules)	WT Docket No. 95-157
Regarding a Plan for Sharing)	RM-8643
the Costs of Microwave Relocation)	

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**REPLIES TO OPPOSITIONS TO PETITIONS FOR RECONSIDERATION OF
THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA") hereby submits its replies to the comments and oppositions on the petitions for reconsideration of the First Report and Order in the above-captioned proceeding.¹ The record demonstrates that PCIA's unopposed proposal to reasonably extend the filing requirements from ten to twenty days for relocation information to the clearinghouse will facilitate the cost sharing process with no concurrent disadvantages. In addition, the Commission should reconsider its decision and adopt AT&T's proposal to clarify involuntary relocation and Omnipoint's petition to include a request for payments unrelated to relocation in the definition of bad faith negotiations during the mandatory period.

**I. THE RECORD DEMONSTRATES SUPPORT FOR PCIA'S PETITION TO
EXTEND THE DEADLINE FOR FILING MATERIALS WITH THE
CLEARINGHOUSE TO TWENTY BUSINESS DAYS**

In its petition, PCIA requested that the Commission extend the length of time in which PCS relocators must file information regarding relocations with the cost sharing

¹ First Report and Order and Further Notice of Proposed Rule Making, 2 Comm. Reg. (P&F) 1315 (1996).

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clearinghouse from ten to twenty business days.² Both Pacific Bell Mobile Services³ and AT&T Wireless Services supported PCIA's proposal.⁴ Furthermore, there was no opposition from any party to extending this deadline. PCIA and its members have explained that a longer deadline will facilitate the translation of complicated relocation agreements into the clearinghouse's standard format and will reduce errors.⁵ In particular, this longer filing window will alleviate the burden PCS providers will be under to prepare and file the standardized form for all relocations that have already been completed when the Wireless Bureau announces that the clearinghouses are beginning operations.⁶ Moreover, as PCIA, AT&T, and Pacific Bell noted, no party is disadvantaged by this extension.⁷

The Commission should grant PCIA's petition for the twenty-day filing limit on an expedited basis. Because the clearinghouses will begin operations shortly, it is

² Petition for Partial Reconsideration of PCIA, WT Docket No. 95-157 (filed July 12, 1996)(hereinafter "PCIA Petition").

³ Comments of Pacific Bell Mobile Services, WT Docket No. 95-157, at 3-4 (filed Aug. 8, 1996)(stating that the extension in time will ensure that submissions to the clearinghouse are prepared carefully and that there is "no downside" to the proposal).

⁴ Opposition of AT&T Wireless Services, WT Docket No. 95-157, at 5 n.16 (filed Aug. 8, 1996)(stating that the time extension "would not impose a hardship on any party and would more accurately reflect the complexity associated with translating relocation agreements into the necessary standard documentation").

⁵ PCIA Petition at 1-2.

⁶ Id. at 3-4.

⁷ Id. at 4.

imperative that the Commission extend the deadline prior to the initial filing period. This will be the most difficult time for PCS relocators as the agreements for all prior relocations will have to be submitted in one of the standardized formats required by the clearinghouses. Therefore, PCIA requests that the Commission not allow this administrative change to be delayed by consideration of the issues raised by other petitioners.⁸

II. PCIA SUPPORTS AT&T'S PROPOSAL TO CLARIFY THE INVOLUNTARY RELOCATION PROCEDURES AND OMNIPOINT'S PROPOSED DEFINITION OF BAD FAITH NEGOTIATIONS

PCIA supports AT&T's proposal to clarify that, if a relocation agreement is not reached at the end of the mandatory negotiation period, the incumbent must vacate the 2 GHz band or immediately be converted to secondary status.⁹ Considerable confusion exists as to proper procedures for an involuntary microwave relocation, as is demonstrated by some of the comments on AT&T's proposal. For example, APCO states that an involuntary relocation can only occur "after the failure of mandatory negotiations and after the FCC confirms that the replacement facilities meet the

⁸ PCIA requests that the Commission state in its Public Notice announcing that the clearinghouses are established and beginning operations that, on an interim basis pending a decision on PCIA's petition for reconsideration, PCS licensees are allowed to file their relocation materials with a clearinghouse within twenty business days. To the extent this requires a waiver of the FCC's rules, PCIA hereby requests such a waiver.

⁹ Petition of AT&T Wireless Services, WT Docket No. 95-157, at 5 (filed July 12, 1996).

comparability requirements contained in its rules."¹⁰ However, nowhere in the relocation rules is there a requirement for prior Commission review of the comparability of replacement facilities in this circumstance, and introduction of such an additional hurdle will lead to the very delays in band clearing that AT&T seeks to avoid. Consequently, the Commission should take this opportunity to clarify that involuntary relocation is not a third negotiation period and, thus, prevent any further delays in the deployment to PCS.

The Commission should likewise adopt Omnipoint's proposal that an incumbent requesting a cash payment which is not directly related to any reasonable costs of relocation or negotiating costs be considered to be negotiating in bad faith.¹¹ Although some incumbents have argued that this could hamper good faith negotiations because incumbents would be fearful of asking for payments for transition expenses or self-relocation, such a result is highly doubtful. Any request for payment of reasonable transition costs for interim facilities or self-relocation would clearly be related to relocation and/or negotiation costs. Only outrageous demands for premiums, such as those of Suffolk County cited in PCIA's Comments, would be considered bad faith.¹²

¹⁰ Opposition of APCO, WT Docket No. 95-157, at 2-3 (filed Aug. 8, 1996)(emphasis in original).

¹¹ Petition of Ominpoint Communications, WT Docket No. 95-157, at 5 (filed July 12, 1996).

¹² See Comments of PCIA, WT Docket No. 95-157, at 9 (filed Aug. 8, 1996).

Thus, only those incumbents trying to take advantage of the Commission's rules will be affected by this proposal.

III. CONCLUSION

For the foregoing reasons, PCIA urges the Commission to adopt expeditiously its proposal to extend to twenty business days the time in which PCS relocators must file their relocation information with a clearinghouse. In addition, the Commission should approve the clarifications of the microwave relocation rules proposed by AT&T and Omnipoint.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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